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Principal Deputy Assistant Attorney General

BEATRIZ T. SAIZ  
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U.S. Department of Justice  
P.O. Box 227  
Washington, D.C. 20044  
202-307-6585 (v)  
202-514-6866 (f)  
Beatriz.T.Saiz@usdoj.gov  
*Counsel for the United States of America*

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY

|  |   |
|--|---|
| UNITED STATES OF AMERICA,                      | : |
|  | : |
| Plaintiff,                                     | : |
|  | : |
| v.   | : |
|  | : |
| DONALD S. MACLACHLAN,                          | : |
| MACLACHLAN LAW OFFICES, LLC                    | : |
| MARIE NAPOLIELLO MACLACHLAN,                   | : |
| OCWEN LOAN SERVICING LLC,                      | : |
| NEW JERSEY DIVISION OF TAXATION,               | : |
| RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, LLP | : |
|  | : |
| Defendants.                                    | : |

**COMPLAINT**

The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, authorized and requested this action, at the direction of the Attorney General of the United States under the authority of 26 U.S.C. §§7401 and 7403. The United States complains as follows:

1. This is a civil action in which the United States seeks to reduce to judgment federal income tax assessments made against the defendant Donald S. Maclachlan and employment tax assessments attributable to his limited liability corporation, Maclachlan Law Offices and to foreclose on the federal tax liens against real property located at 72 Cedar Drive, Allendale, New Jersey ("Real Property").

### **JURISDICTION AND VENUE**

2. Jurisdiction is conferred on this court pursuant to 28 U.S.C. §§ 1340 and 1345, and I.R.C. §§ 7402 and 7403.
3. Venue is proper in this district under 28 U.S.C. § 1396.

### **PARTIES**

4. Plaintiff is the United States of America.
5. Defendant Donald S. Maclachlan ("Maclachlan") resides in Allendale, New Jersey, within this judicial district.
6. Defendant Maclachlan Law Offices, LLC is a limited liability whose principal office is in Upper Saddle River, New Jersey, within this judicial district..
7. Defendant Marie Napoliello Maclachlan is named as a party pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the Real Property.
8. Defendant Ocwen Loan Servicing LLC is named as a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Real Property.
9. Defendant New Jersey Division of Taxation is named as a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Real Property.

10. Defendant Riker, Danzig, Scherer, Hyland & Perretti LLP is named as a party pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Real Property.

**COUNT I-REDUCE INCOME TAX ASSESSMENTS TO JUDGMENT AGAINST  
DONALD S. MACLACHLAN**

11. The United States incorporates by reference the allegations set forth in paragraphs 1 through 10 of the complaint.

12. A delegate of the Secretary of the Treasury made the following federal income tax assessments against Maclachlan:

| Tax Type | Taxable Period | Assessment Date | Amount of Tax Assessed | Total Due As of November 6, 2017 |
|----------|----------------|-----------------|------------------------|----------------------------------|
| 1040     | 2001           | 02/05/2007      | \$172,206              | \$506,350                        |
| 1040     | 2002           | 03/26/2007      | \$62,246               | \$174,855                        |
| 1040     | 2003           | 07/16/2007      | \$14,940               | \$39,812                         |
| 1040     | 2004           | 06/11/2007      | \$15,091               | \$37,645                         |
| 1040     | 2005           | 10/08/2007      | \$11,661               | \$28,025                         |
| 1040     | 2006           | 01/07/2008      | \$62,396               | \$119,539                        |
| 1040     | 2007           | 02/09/2009      | \$74,253               | \$154,763                        |
| 1040     | 2012           | 03/10/2014      | \$8,742                | \$14,300                         |

13. Notice and demand for payment of the assessments described in paragraph 12 was given to Maclachlan.

14. Statutory additions for interest and penalties have accrued and will continue to accrue on the assessments described in paragraph 12.

15. Maclachlan has failed to pay the United States the full amount owed as a result of the assessments described in paragraph 12.

16. By reason of the foregoing, Maclachlan is indebted to the United States in the amount of \$1,075,469, as of November 6, 2017, plus interest and costs that have accrued and will continue accruing according to law.

**COUNT II -JUDGMENT AGAINST DONALD S. MACLACHLAN FOR  
EMPLOYMENT TAX LIABILITIES OF MACLACHLAN LAW OFFICES, LLC**

17. The allegations set forth in paragraphs 1 through 16 above are re-alleged and incorporated by reference as though fully set forth herein.

18. Maclachlan was the single member of Maclachlan Law Offices, LLC, a disregarded entity. As the single member, Maclachlan is personally liable for the employment taxes due by Maclachlan Law Offices for all periods prior to January 1, 2009.

19. A delegate of the Secretary of the Treasury properly and timely assessed federal taxes against Maclachlan Law Offices, LLC on the following dates for the tax periods included below:

| Tax Type            | Tax Period Ending | Assessment Date | Amount of Tax Assessment | Total Due as of November 6, 2017 |
|---------------------|-------------------|-----------------|--------------------------|----------------------------------|
| W/T-FICA (Form 941) | 03/31/2002        | 07/08/2002      | \$45,623                 | \$49,549                         |
| W/T-FICA (Form 941) | 06/30/2002        | 10/07/2002      | \$31,530                 | \$36,532                         |
| W/T-FICA (Form 941) | 09/30/2002        | 01/06/2003      | \$22,755                 | \$21,039                         |
| W/T-FICA (Form 941) | 12/31/2002        | 04/07/2003      | \$29,742                 | \$34,154                         |

| Tax Type            | Tax Period Ending | Assessment Date | Amount of Tax Assessment | Total Due as of November 6, 2017 |
|---------------------|-------------------|-----------------|--------------------------|----------------------------------|
|                     |                   |                 |                          |                                  |
| W/T-FICA (Form 941) | 03/31/2003        | 06/30/2003      | \$24,230                 | \$29,595                         |
| W/T-FICA (Form 941) | 06/30/2003        | 09/29/2003      | \$28,400                 | \$36,721                         |
| W/T-FICA (Form 941) | 09/30/2003        | 05/24/2004      | \$22,057                 | \$38,338                         |
| W/T-FICA (Form 941) | 12/31/2003        | 03/15/2004      | \$11,556                 | \$14,347                         |
| W/T-FICA (Form 941) | 12/31/2004        | 10/09/2006      | \$14,759                 | \$22,835                         |
| W/T-FICA (Form 941) | 03/31/2005        | 09/11/2006      | \$16,349                 | \$20,454                         |
| W/T-FICA (Form 941) | 06/30/2005        | 09/11/2006      | \$19,595                 | \$27,234                         |
| W/T-FICA (Form 941) | 09/30/2005        | 11/20/2006      | \$18,539                 | \$16,894                         |
| W/T-FICA (Form 941) | 12/31/2006        | 06/11/2007      | \$17,347                 | \$8,133                          |

20. Notice and demand for payment of the tax assessments described in paragraph

19 above was given to Maclachlan Law Offices, LLC, but it has failed to fully pay the assessed federal employment tax liabilities.

21. Statutory interest and additions to tax have accrued on the unpaid balance of the assessments set forth in paragraph 19 above, and will continue to accrue until fully paid.

22. Despite notice and demand for the payment of the tax assessments set forth above, Maclachlan Law Offices, LLC has failed or refused to fully pay those tax assessments, and as a result Maclachlan is indebted to the United States for the unpaid federal taxes, penalties, and interest described in paragraph 19 above, in the total amount of \$355,825 as of November 6, 2017, plus statutory interest and additions to tax that have accrued or will continue to accrue after that date, according to law.

**COUNT IV- REDUCE TAX ASSESSMENTS TO JUDGMENT AGAINST  
MACLACHLAN LAW OFFICES, LLC**

23. The allegations set forth in paragraphs 1 through 22 above are re-alleged and incorporated by reference as though fully set forth herein.

24. A delegate of the Secretary of the Treasury properly and timely assessed federal taxes against Maclachlan Law Offices, LLC on the following dates for the tax periods included below:

| Tax Type            | Tax Period Ending | Assessment Date | Amount of Tax Assessment | Total Due as of November 6, 2017 |
|---------------------|-------------------|-----------------|--------------------------|----------------------------------|
| W/T-FICA (Form 941) | 03/31/2009        | 06/29/2009      | \$2,980                  | \$462                            |

| Tax Type             | Tax Period Ending | Assessment Date | Amount of Tax Assessment | Total Due as of November 6, 2017 |
|----------------------|-------------------|-----------------|--------------------------|----------------------------------|
| W/T-FICA (Form 941)  | 06/30/2009        | 09/14/2009      | \$6,801                  | \$898                            |
| W/T-FICA (Form 941)  | 09/30/2009        | 01/04/2010      | \$7,050                  | \$1,598                          |
| W/T-FICA (Form 941)  | 12/31/2009        | 04/05/2010      | \$11,607                 | \$1,561                          |
| W/T-FICA (Form 941)  | 03/31/2010        | 06/14/2010      | \$6,749                  | \$865                            |
| W/T-FICA (Form 941)  | 06/30/2010        | 11/07/2011      | \$6,749                  | \$821                            |
| W/T-FICA (Form 941)  | 09/30/2010        | 11/07/2011      | \$6,749                  | \$1,437                          |
| W/T-FICA (Form 941)  | 12/31/2011        | 04/09/2012      | \$6,251                  | \$7,887                          |
| W/T-FICA (Form 941)  | 09/30/2012        | 02/25/2013      | \$4,169                  | \$3,408                          |
| FUTA (Form 940)      | 12/31/2005        | 11/20/2006      | \$280                    | \$2,015                          |
| CIVIL PENALTY § 6721 | 12/31/2004        | 10/22/2007      | \$20,052                 | \$29,446                         |
| CIVIL PENALTY § 6721 | 12/31/2005        | 11/10/2008      | \$23,293                 | \$32,059                         |
| CIVIL PENALTY § 6721 | 12/31/2006        | 10/12/2009      | \$8,078                  | \$10,637                         |
| CIVIL PENALTY § 6721 | 12/31/2007        | 10/11/2010      | \$2,860                  | \$3,619                          |

| Tax Type             | Tax Period Ending | Assessment Date | Amount of Tax Assessment | Total Due as of November 6, 2017 |
|----------------------|-------------------|-----------------|--------------------------|----------------------------------|
| CIVIL PENALTY § 6721 | 12/31/2008        | 11/07/2011      | \$9,950                  | \$12,103                         |
| CIVIL PENALTY § 6721 | 12/31/2009        | 09/10/2012      | \$9,950                  | \$11,802                         |
| CIVIL PENALTY § 6721 | 12/31/2010        | 09/09/2013      | \$9,950                  | \$11,511                         |

25. Notice and demand for payment of the tax assessments described in paragraph 24 above was given to Maclachlan Law Offices, but it has failed to fully pay its assessed federal employment tax liabilities.

26. Statutory interest and additions to tax have accrued on the unpaid balance of the assessments set forth in paragraph 24 above, and will continue to accrue until fully paid.

27. Despite notice and demand for the payment of the tax assessments set forth above, Maclachlan Law Offices has failed or refused to fully pay those tax assessments, and as a result is indebted to the United States for the unpaid federal taxes, penalties, and interest described in paragraph 24 above, in the total amount of \$132,129 as of November 6, 2017, plus statutory interest and additions to tax that have accrued or will continue to accrue after that date, according to law.



**COUNT IV – FORECLOSURE FEDERAL TAX LIENS AGAINST THE REAL  
PROPERTY**

28. The United States incorporates by reference the allegations set forth in paragraphs 1 through 27 of the complaint.
29. By deed dated August 11, 1994, Defendants Maclachlan and Marie Napoliello Maclachlan, acquired the real property known as 72 Cedar Drive, Allendale, New Jersey (“the Real Property”) and as more particularly described in the attached Exhibit A.
30. By reason of the assessments described in paragraphs 12 and 19, federal tax liens arose on the dates of the assessments, and attached to all property and rights to property owned or thereafter acquired by Maclachlan, including the Real Property.
31. Notices of federal tax liens against Maclachlan for the assessments described in paragraph 12 were filed with the Office of the County Clerk in Hackensack, NJ on December 11, 2001, September 10, 2007, January 24, 2008, May 2, 2008, April 6, 2009, August 31, 2010, December 10, 2010, July 28, 2014, and March 28, 2017.
32. The following entities have been named as parties to this suit as they may claim an interest in the Real Property:
- a. Marie Napoliello Maclachlan because she is named in the deed as an owner of the Real Property;

- b. Ocwen Loan Servicing LLC based on a mortgage issued by Natwest Home Mortgage and recorded on September 25, 1995 and later assigned to Ocwen Loan Servicing LLC;
  - c. New Jersey Division of Taxation based on a recorded judgment dated November 21, 2013; and
  - d. Riker Danzig Scherer Hyland & Peretti based on a recorded judgment dated March 31, 2016.
33. The United States' tax liens should be foreclosed against the Real Property, and the Court should determine the interests of the United States and each of the Defendants, order a sale of the Real Property, and order that the proceeds be distributed in accordance with the rights of the parties determined herein, with the amounts attributable to the Maclachlan's interest to be paid to the United States and applied against his federal tax liabilities.

WHEREFORE, the Plaintiff, the United States of America, respectfully prays for judgment as follows:

- A. As to Count I, the Court enter judgment in favor of the United States and against Maclachlan, for the income tax assessments set forth in paragraph 12, in the amount of \$1,075,469, as of November 6, 2017, plus interest, penalties, and costs accruing from that date until whatsoever date Maclachlan satisfies such a judgment;

- B. As to Count II, the Court enter judgment in favor of the United States and against Maclachlan, for the employment tax assessments set forth in paragraph 19, in the amount of \$355,825, as of November 6, 2017, plus interest, penalties, and costs accruing from that date until whatsoever date Maclachlan satisfies such a judgment;
- C. As to Count III, the Court enter judgment in favor of the United States and against Maclachlan Law Offices, LLC, for the assessments set forth in paragraph 24, in the amount of \$132,129, as of November 6, 2017, plus interest, penalties, and costs accruing from that date until whatsoever date Maclachlan Law Offices, LLC satisfies such a judgment;
- D. As to Count IV, that the Court adjudge, declare, and decree that the United States of America has valid and subsisting tax liens, attached the Real Property;
- E. As to Count IV, that the Court adjudge, declare, and decree that the federal tax liens attached to the Real Property be foreclosed and that the Real Property be sold, according to law, free and clear of any right, title, lien, claim, or interest of any of the parties herein, and that the proceeds of the sale be distributed to those parties who appear in this case and assert an interest in the Real Property and prove their entitlement to the proceeds and any party who does not appear and assert an interest shall be adjudged and decreed not to have an interest in the Real Property, with

the amounts attributable to Maclachlan's interest be paid to the United States to be applied against Maclachlan's federal tax liabilities;

- F. That the Court award any other and further relief, including the costs of this action, as may be deemed just and proper under the circumstances.

Date: February 5, 2018

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

By: /s/ Beatriz T. Saiz  
BEATRIZ.T.SAIZ  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 227  
Washington, D.C. 20044  
202-307-6585 (v)  
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M 919—Bargain and sale deed, conveyance by grantor or acts.  
statutory deed leasehold, ind. or conv.

© 1981 by Arthur B. Horn, a New Jersey attorney  
Blumberg, Inc., Publisher, NYC 10012

Consult your Lawyer before signing this deed — it has important legal consequences.

# Deed

Date  
Parties

This Deed is made on August 11, 1994 between

Grantor  
Full name(s)  
and post  
office address

GRACECHURCH REALTY CORP., a Delaware corporation  
having an address at 75 Wall Street, New York,  
New York 10265

Grantor, and

Grantee  
Full name(s)  
and post  
office address

DONALD S. MACLACHLAN and MARIE NAPOLIELLO MACLACHLAN,  
his wife, both with an address at 696 Penn Avenue,  
Rearneck, New Jersey 07666

RECORDED-BERGEN COUNTY

132878

94 AUG 31 AM 11:10

Grantee.

(The words "Grantor" and "Grantee" include all Grantors and all  
Grantees under this Deed.)

150  
Chairs  
Kuehler  
Conveyance

In return for the payment to the Grantor by the Grantee of FOUR HUNDRED  
THIRTY-FIVE THOUSAND AND NO/100-----

-----Dollars (\$ 435,000.00 ),  
the Grantor grants and conveys to the Grantee all of the land located in the  
Borough of Allendale County of Bergen  
and State of New Jersey, specifically described as follows:

150  
Description  
of Land

ALL that certain plot, piece or parcel of land, with the buildings and improvements  
thereon erected, situate, lying and being in the Borough of Allendale, County of  
Bergen and State of New Jersey.

BEING known and designated as Lot 9 in Block 2-D, as shown on a certain map entitled 'Final Subdivision Plat  
Lot 8 and Part of Lot 4, Block 2 in the Borough of Allendale, Bergen County, N.J. for Crastwood Acres Section  
No. 3A' filed in the Bergen County Clerk's Office on March 18, 1967 as map number 8849, and described as  
follows:

BEGINNING at a point on the southerly line of Cedar Drive, where the same is intersected by the division line  
between Lots 8 and 10 in Block 2-D, as shown on the aforementioned map number 6849, which point is distant  
105.40 feet westerly from a point formed by the intersection of the southerly line of Cedar Drive with the  
southerly projection of the westerly line of Bonnie Way, and from thence running:

1. South 8 degrees 8' and 45' West, and along the aforementioned division line of Lots 9 and 10,  
239.33 feet to a point, thence
2. North 81 degrees 51' 18" West, along the southerly line of Lot 9, 167.14 feet to a point, thence
3. North 8 degrees 8' 45' East, and along the division line of Lots 8 and 9, 239.33 feet to a point in  
the southerly line of Cedar Drive, thence
4. South 81 degrees 51' 18" East, and along the southerly line of Cedar Drive, 167.14 feet to the point  
or place of BEGINNING.

BEING the same premises conveyed to the Grantors herein by way of Deed from Edward T.B. Blight et ux  
dated April 8, 1994, recorded April 18, 1994 in the Bergen County Clerk's Office in Deed Book Volume 7689  
at Page 647 et seq.

All in accordance with a Survey prepared by Frank W. Koestner Associates, Professional Engineers & Surveyors,  
Hackensack, New Jersey, dated August 9, 1994.

BEING also known as 72 Cedar Drive, Allendale, New Jersey.

Prepared by: Howard M. Rubin, Esq.

(signature)

BN 1127 PG 043

GOVERNMENT  
EXHIBIT

A

PERGAD 600-431-6883

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No. \_\_\_\_\_

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No. \_\_\_\_\_

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If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

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 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No. \_\_\_\_\_

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

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If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

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This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

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UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

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Civil Action No. \_\_\_\_\_

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT  | TORTS  | FORFEITURE/PENALTY  | BANKRUPTCY  | OTHER STATUTES  |
|---|--|---|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education<br><b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement  |   |   |   |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.